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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,336	10/31/2001	Stanley J. Kopecky	112703-208	5203

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EXAMINER

ARNOLD III, TROY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary	Application No. 10/003,336	Applicant(s) KOPECKY, STANLEY J.	
	Examiner Troy Arnold	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9-11, 13, 14 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-7, 9-11, 13 and 35 is/are allowed.
- 6) ☒ Claim(s) 14, 25, 26, 32 and 33 is/are rejected.
- 7) ☒ Claim(s) 27-31 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 25, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittgen in view of Sundhar et al. Dittgen teaches all the limitations of claim 14 except a housing. Sundhar teaches a housing 100. It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the sheets and products of Dittgen inside the housing of Sundhar in order to better preserve the freshness of the consumable products of Dittgen. (Dittgen teaches consumable products (cigars), a sheet 1,2,3,4,5,6, where products are attached to either side of the sheet. The sheet includes adhesive areas – see column 2 beginning line 79, and the consumable products, the cigars, are releasably attached to the adhesive areas of the sheets.) Sundhar clearly teaches the limitations of claim 25. Dittgen clearly teaches the limitations of claim 32. Regarding claim 33, plural sheets 1,2,3,4,5,6 will be inside the housing. Regarding claim 34, the cigars are individually unpackaged and directly, releasably attached to the sheets.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dittgen as modified regarding claim 14, further in view of Official Notice. Dittgen as modified

Art Unit: 3728

regarding claim 14 teaches all the limitations of claim 26 except a cutout in one of the walls of the housing. Official Notice is taken that containers with cutouts in a wall are old obvious and well known in the packaging arts. Cigarette packs are just one example. It would have been obvious in view of Official Notice taken to one of ordinary skill in the art at the time the invention was made to put Dittgen's sheet and products into a housing with a cutout in a wall for the purpose of protecting the products and at the same time allowing for easy removal of the product.

Allowable Subject Matter

Claims 1-3, 5-7, 9-11, 13 and 35 are allowed.

Claims 27-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 12 November 2003 have been fully considered but they are not persuasive. Regarding the arguments pertaining to the restrictions, it is maintained that the originally presented claims in total would have presented a burdensome search on the Examiner and that the different embodiments claimed are patentably distinct. Regarding claim 14, despite the implications in the Applicant's arguments, the wording in claim 5 in paper No 13 is not the same as it is in paper No. 15, hence claim 14 is rejectable as above. Dittgen's cigars are releasably attached to

Art Unit: 3728

the adhesive areas of the sheet 1,2,3,4,5, and each sheet includes plural adhesive areas.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-0302.

Art Unit: 3728

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold
Examiner
Art Unit 3728

TGA
1/13/04



Mickey Yu
Supervisory Patent Examiner
Group 3700